

KEAN UNIVERSITY TERMS AND CONDITIONS

The following terms and conditions apply to all contract or purchase agreements, made with the Kean University (“Kean” or “University”) unless specifically deleted on the University bid and/or proposal form. Vendors submitting offers to the University must cross out any paragraph they do not agree to meet. Any cross-out or change in the University terms and conditions will be a factor in the determination of an award of a contract or purchase agreement.

Vendors are notified by this statement that all terms and conditions will become part of any contract(s) or order(s) awarded as a request for proposal whether stated in part in summary or by reference. Kean’s terms and conditions shall prevail over any conflicts set forth in a vendor’s quote or proposal.

SECTION 1 - STATE LAW REQUIRING MANDATORY COMPLIANCE BY ALL VENDORS.

1.1 BUSINESS REGISTRATION. Vendor agrees that it will comply with the provisions of P.L. 2004, c. 57, which requires all businesses that are awarded a public contract by a New Jersey state college or university to register with the Department of Treasury. Vendor shall be required to provide Kean with proof of business registration in accordance with P.L. 2004, c. 57 prior to contract award. The vendor must forward a current and valid business registration certificate of all subcontracts to University Procurement and Business Services prior to contract award. A business organization that fails to provide a copy of a business registration, or that provides false business registration information, shall be liable for a penalty of \$25 for each day of violation, not to exceed \$50,000 for each business registration copy not properly provided under contract with Kean.

1.2 ANTI-DISCRIMINATION. All parties to any contract with Kean agree not to discriminate in employment and agree to abide by all anti-discrimination laws, including those contained with N.J.S.A. 10:2-1 through N.J.S.A. 10:2-4, N.J.S.A. 10:5-1 et seq. and N.J.S.A. 10:5-31 through 10:5-38 and all rules and regulations issued thereunder are hereby incorporated by reference.

1.3 EEO/AFFIRMATIVE ACTION. Vendor agrees that it does not discriminate in the hiring or promotion of any minorities, as designated by the Equal Employment Opportunity Commission of the United States of America, or the Department of Civil Rights of the State of New Jersey, and that it does not discriminate against any person or persons on the basis of race, creed, age, color, sex, national origin or handicap. In addition, vendor agrees to complete a Mandatory Language for Professional Agreements form and a State of New Jersey Affirmative Action Employee Information Report (AA-302 form). However, if vendor maintains a current Letter of Federal Approval, or a current Certificate of Employee Information Report approval as issued by the New Jersey Department of Treasury, it may be submitted in lieu of the AA-302 form indicated above. Vendor agrees to the mandatory EEO/AA language for goods and services and professional services contracts, or construction contracts awarded by a public agency, as applicable, as more fully set forth in N.J.A.C. 17:27-3.5 and 3.7 or N.J.A.C. 17:27-3.6 and 3.8 respectively, which are incorporated by reference as if fully restated herein.

1.4 THE WORKER AND COMMUNITY RIGHT TO KNOW ACT. The provisions of N.J.S.A. 34:5A-1 et seq. require the labeling of all containers of hazardous substances. All goods offered for purchase to Kean must be labeled in compliance with the provisions of the Act.

1.5 OWNERSHIP DISCLOSURE. If vendor is a corporation, partnership, or limited liability company, vendor shall provide Kean with a statement setting forth the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein,

pursuant to N.J.S.A. 52:25-24.2. The ownership disclosure form can be accessed at Kean's website at: <https://www.kean.edu/offices/university-procurement-and-business-services/forms>.

1.6 CHOICE OF LAW. Kean is a New Jersey state entity and therefore it is required by law to have jurisdiction in the State of New Jersey for rule-of-law or dispute resolution; venue and jurisdiction regarding any matter pertaining to the contract shall be in the Superior Court of New Jersey, Law Division, Union County Vicinage.

1.7 COMPLIANCE LAWS. The vendor must comply with all local, state, and federal laws, rules, and regulations applicable to the contract and to the goods delivered and/or services performed under the contract. It is agreed and understood that any contracts and/or orders placed under this contract shall be governed and construed and the rights and obligations of the parties hereto shall be determined in accordance with the laws of the State of New Jersey.

1.8 PREVAILING WAGE ACT. The New Jersey Prevailing Wage Act, N.J.S.A. 34:11-56.26 et seq., is hereby made part of every contract entered into by Kean, except those contracts which are not subject to the Act. The vendor agrees to comply with all applicable provisions of the Act and its implementing regulations. The vendor also guarantees that neither it, nor any subcontractor or lower tier subcontractor that it might employ to perform the work has been suspended or debarred by the Commissioner of the Department of Labor and Workforce Development. Vendor shall regularly consult the NJ Department of Labor & Workforce Development's website at <https://www.nj.gov/labor/wageandhour/prevailing-rates/public-works/index.shtml>.

1.9 COMPLIANCE WITH PUBLIC LAW 2005, CHAPTER 51. Vendor agrees that it will comply with Public Law 2005, Chapter 51 (N.J.S.A. 19:44A-20.13-20.25), which requires all business having been awarded a state contract to submit a certification and disclosure of political contributions. Vendor is under a continuous duty to disclose all contributions made during the term of this contract. The required form can be accessed on Kean's website at: <https://www.kean.edu/offices/university-procurement-and-business-services/forms>.

1.10 COMPLIANCE WITH PUBLIC LAW 2005, CHAPTER 271. Vendor agrees to comply with P.L. 2005, c. 271, by completing and submitting the required Chapter 271 Political Contribution Disclosure Form before the effective date of the contract. The required form can be accessed on Kean's website at: <https://www.kean.edu/offices/university-procurement-and-business-services/forms>. Vendor is advised of its responsibility to file an annual disclosure statement of political contributions with the New Jersey Election Law Enforcement Commission (ELEC), pursuant to P.L. 2005, c.271, section 3 if vendor receives contracts in excess of \$50,000 from a public entity in a calendar year. It is vendor's responsibility to determine if filing is necessary. Failure to so file can result in the imposition of financial penalties by ELEC. Additional information about this requirement is available from ELEC at 888-313-3532 or at www.elec.state.nj.us/.

1.11 IRAN INVESTMENT DISCLOSURE. Pursuant to N.J.S.A. 52:32-56 et seq., vendor represents and warrants that: a) it is not providing goods or services of \$20,000.00 or more in the energy sector of Iran, including oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran, and b) is not a financial institution that extends \$20,000,000 or more in credit to another person or entity, for 45 days or more, if that person will use the credit to provide goods or services in the energy sector in Iran. Vendor certifies that it is not identified on the list created by the Department of the Treasury as a person or entity that has been determined to engage in investment activities in Iran, as described in this paragraph. If vendor is unable to so certify, the vendor shall provide a detailed and precise description of such activities as directed on the form required by Kean. A breach of this representation and warranty shall be a material

breach and permits Kean to terminate the contract and subject the vendor to civil and criminal penalties by the State of New Jersey pursuant to N.J.S.A. 52:32-59. The form for disclosure of investment activities in Iran can be found on Kean's website at: <https://www.kean.edu/offices/university-procurement-and-business-services/forms>.

1.12 Compliance with MacBride Principles and Northern Ireland Act of 1989. Vendor certifies, pursuant to N.J.S.A. 52:34-12.2, that it has no business operations in Northern Ireland or that it will take lawful steps in good faith to conduct any business operations it has in Northern Ireland pursuant to the MacBride principles of nondiscrimination in employment as set forth in N.J.S.A. 52:18A-89.5, and in conformance with the United Kingdom's Fair Employment (Northern Ireland) Act of 1989, and permit independent monitoring of their compliance with those principles.

1.13 Certification of Non-Involvement in Prohibited Activities in Russia or Belarus. Vendor certifies, pursuant to N.J.S.A. 52:32-60.1 et seq., that it is not identified on the Department of Treasury's list of vendors engaged in prohibited activities in Russia or Belarus and that it is not engaged in prohibited activities in Russia or Belarus, as described in N.J.S.A. 52:32-60.1(e). If the vendor fails to certify or is listed on such list, vendor shall be ineligible to enter into a contract with Kean for goods or services. If vendor is unable to make such certification because (i) it or one of its parents, subsidiaries, or affiliates has engaged in prohibited activity in Russia or Belarus; or (ii) it is currently engaged in activity in Russia and/or Belarus, but is doing so consistent with federal law, regulation, and/or license, vendor shall provide to Kean prior to the deadline for delivery of such certification, a detailed and precise description of such activities, such description to be provided under penalty of perjury. Any such certifications or disclosures shall be disclosed to the public pursuant to the requirements of N.J.S.A. 52:32-60.1(c). If vendor makes a certification in violation of N.J.S.A. 52:32-60.1 et seq., the Department of Treasury shall take any action as may be appropriate and provided by law, rule, or contract, including but not limited to imposing sanctions, seeking compliance, recovering damages, declaring the party in default, and seeking debarment or suspension of the party.

1.14 SOURCE DISCLOSURE. Pursuant to N.J.S.A. 52:34-13.2 and when applicable to the total value of the contract, vendor represents and warrants that the goods and/or services shall be created or performed entirely within the United States. If vendor's goods and/or services are not created or performed entirely within the United States, vendor shall demonstrate to Kean that there is no other available source for the goods and/or services within the United States, and approval shall be documented in writing to the Chief Financial Officer or his/her designee. A breach of this representation and warranty shall be a material breach and permits Kean to terminate the contract immediately, at which point Kean shall have no obligation to make payment to the vendor. Vendor agrees that it will comply with the provisions of N.J.S.A. 52:32-1, which requires that manufactured items or farm products provided under this contract to be used in a public work shall be manufactured or produced in the United States.

1.15 NON-COLLUSION. Vendor warrants and represents that vendor has not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free, competitive bidding in connection with Kean entering into a contract with vendor.

1.16 DOCUMENT RETENTION. Vendor shall maintain all documentation related to products, transactions, and/or services under this contract for a period of five (5) years from the date of final payment. Such records shall be made available to Kean and/or to the NJ State Comptroller upon request.

1.17 STANDARDS PROHIBITING CONFLICTS OF INTEREST. The following prohibitions on vendor activities shall apply to all contracts with Kean pursuant to Executive Order No. 189 (1988) and N.J.S.A. 52:13D-19:

- a. Vendor shall not pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any Kean officer or employee or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such Kean officer or employee, or partnership, firm, or corporation with which they are employed or associated, or in which such Kean officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
- b. The solicitation of any fee, commission, compensation, gift, gratuity, or other thing of value by any Kean officer or employee from the vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.
- c. The vendor may not, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to employment, contract or other agreement, express or implied, or sell any interest in such vendor to, any Kean officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to Kean, or with any person, firm, or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13g. Any relationships subject to this provision shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of Kean officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality, or appearance of a conflict of interest.
- d. The vendor shall not influence, or attempt to influence, or cause to be influenced, any Kean officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee.
- e. The vendor shall not cause or influence, or attempt to cause or influence, any Kean officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the vendor or any other person.
- f. The provisions cited above shall not be construed to prohibit a Kean officer or employee from receiving gifts or entering into contracts with the vendor under the same terms and conditions that are offered or made available by vendor to members of the general public.
- g. In addition, vendor shall comply with the provisions of the Conflicts of Interest Law, N.J.S.A. 52:13D-12 to -28, and agrees to be bound by the provisions of the Business Ethics Guide, which can be accessed at the NJ Department of Treasury website: <https://www.nj.gov/treasury/purchase/pdf/BusinessEthicsGuide.pdf>.

1.18 WARRANTY OF NO SOLICITATION ON COMMISSION OR CONTINGENT FEE BASIS. Pursuant to N.J.S.A. 18A:64N-26, vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the vendor for the purpose of securing business. If a breach or violation of this section occurs, Kean shall have the right to terminate the contract without liability or in its discretion to deduct from the contract price or consideration the full amount of such commission, percentage, brokerage, or contingent fee.

1.19 FEDERALLY FUNDED CONTRACTS. If the vendor will be paid by Kean using federal funds, vendor and its subcontractor(s) shall abide by the requirements of the Civil Rights Act of 1964, 41 CFR 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

1.20 CERTIFICATION OF FEDERAL NON-DEBARMENT. Pursuant to N.J.S.A. 52:32-44.1, vendor certifies that: a) vendor is not debarred at the federal level from contracting with the federal government; and b) none of the parent entities, subsidiaries, related entities, or affiliates of the vendor are debarred at the federal level from

contracting with the federal government. Vendor acknowledges that it is a crime if the foregoing is false, that vendor will be subject to criminal prosecution and shall be in material breach of the contract(s) it has with Kean entitling Kean to take action against vendor as may be appropriate and permitted by law, rule, or contract, including but not limited to imposing sanctions, seeking compliance, recovering damages, declaring vendor in default, and/or seeking debarment.

1.21 INDEPENDENT CONTRACTOR. Neither party shall be considered nor hold itself out as an agent of the other. Vendor shall perform the services set forth in the contract in the capacity of an independent contractor without the establishment of any employer/employee, joint venture, or partnership relationship. Vendor shall not have a claim under this contract or otherwise against Kean for salary, other compensation, health benefits, vacation pay, sick leave, workers compensation, retirement benefits, or employee benefits of any other kind.

1.22 CONFIDENTIALITY OF INFORMATION. Vendor agrees to keep confidential and not disclose to third parties any information provided by Kean pursuant to this Agreement unless vendor has received prior written consent of Kean to make such disclosure. This provision shall survive expiration and termination of this contract. To the extent that vendor is provided access to education records, vendor agrees to abide by the limitations on redisclosure of personally identifiable information from student education records as set forth in the Family Educational Rights and Privacy Act, 34 CFR 99.33.

1.23 DISCLOSURE OF INVESTIGATIONS AND OTHER ACTIONS. Vendor certifies that no officers or directors of the vendor: 1) have ever been arrested, charged, indicted, or convicted in a criminal or disorderly persons matter by the State of New Jersey (or political subdivision thereof), or by any other state or the U.S. Government; (2) have ever been suspended, debarred or otherwise declared ineligible by any government agency from bidding or contracting to provide services, labor, material or supplies; or (3) have been denied any license, permit or similar authorization required to engage in the work contracted for herein, or have had such license, permit or similar authorization revoked by any federal, state or local government. Vendor further certifies that there are no pending criminal matters or debarment proceedings in which vendor and/or its officers and/or managers are involved. If vendor is unable to make any of the certifications set forth herein, then the vendor shall provide a detailed description of any investigation or litigation, including but not limited to administrative complaints or other administrative proceedings, involving public sector clients during the past five (5) years. Such description must include the nature and status of the investigation, and for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and if applicable, disposition. Vendor acknowledges that it is under a continuing obligation from the date hereof through the completion of any contract(s) with Kean University to notify Kean University in writing of any changes to the information contained herein.

1.24 SET-OFF FOR STATE TAX NOTICE. Pursuant to N.J.S.A. 54:49-19, effective January 1, 1996, and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership, or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act. The Director of the Division of Taxation shall give notice to the set-off to the taxpayer and provide an opportunity for a hearing within thirty (30) days of such notice under the procedures for protests established under R.S. 54:49-18. No requests for conference, protest, or subsequent appeal to the Tax Court from any protest under this section shall stay the collection of the indebtedness. Interest that may be payable by the State, pursuant to P.L. 1987, c.184 (c.52:32-32 et seq.), to the taxpayer shall be stayed.

1.25 FORCE MAJEURE. Neither party shall be liable to the other for failure to perform its obligations under this Agreement due to fire, flood, strikes or other industrial disturbances, accidents, war, riot, insurrection or other causes beyond the control of the parties.

1.26 AMENDMENT. This contract may be amended only by a writing executed by both parties.

1.27 SEVERABILITY. If any material provision herein is held invalid or unenforceable, this contract shall be terminated unless the parties agree to a new provision or terms within thirty (30) days.

1.28 BUSINESS ETHICS GUIDE. Vendor certifies that it is in compliance with the Business Ethics Guide, accessible on the Division of Purchase and Property website: <https://www.state.nj.us/treasury/purchase/pdf/BusinessEthicsGuide.pdf>. Vendor certifies that it will comply with the Business Ethics Guide during the term of the contract.

1.29 EUROPEAN UNION GENERAL DATA PROTECTION REGULATION. To the extent vendor shall collect, store, or process personal data within the European Union or about citizens of the European Union, vendor agrees to the Standard Contractual Clauses for Controller/Processor pursuant to EU Commission Decision C(2010)593.

1.30 CHINESE PERSONAL INFORMATION PROTECTION LAW (PIPL). To the extent vendor shall collect, store, or process personal data within the People's Republic of China, vendor agrees to the terms and conditions relating to the processing and privacy of personal information as set forth in the PIPL.

1.31 AMERICANS WITH DISABILITIES ACT. The vendor must comply with all provisions of the Americans with Disabilities Act (ADA), P.L. 101-336, in accordance with 42 U.S.C. 12101 et seq.

1.32. REPORTS REQUIRED FOR SERVICE CONTRACTS. Pursuant to N.J.S.A. 34:11-56.14 and to the extent applicable, a vendor who enters into a contract with Kean for the purchase of services shall provide a report to the Commissioner of Labor and Workforce Development, regarding the compensation and hours worked by employees categorized by gender, race, ethnicity, and job category. To the extent applicable, the vendor shall provide reports for every establishment of the vendor having employees. To the extent applicable, the vendor shall report such information using a form adopted by the vendor which can currently be found on the NJ Department of Labor website here: [https://www.nj.gov/labor/forms_pdfs/equalpayact/mw563\(6-18\)annualequalpay.pdf](https://www.nj.gov/labor/forms_pdfs/equalpayact/mw563(6-18)annualequalpay.pdf). Instructions for filling out the form can also be found here: https://www.nj.gov/labor/forms_pdfs/equalpayact/mw-564_instructions.pdf. Reports when required may be made via a printable PDF available on the Department of Labor web site or uploaded in a spreadsheet. Completed reports should be emailed to: equalpayact@dol.nj.gov or such other address identified by the Commissioner. Reporting is not required by vendors who have entered into a contract with Kean to purchase only goods or products.

1.33 REPORTS REQUIRED FOR PUBLIC WORKS CONTRACTS. Pursuant to N.J.S.A. 34:11-56.14, a vendor who enters into a contract with Kean for a public work, as defined in N.J.S.A. 34:11-56.26, shall provide a report to the Commissioner of Labor and Workforce Development, through certified payroll records as required by N.J.S.A. 34:11-56.25, containing information regarding the gender, race, job title, occupational category, and rate of total compensation of every employee of the vendor employed in the State of New Jersey in connection with the contract with Kean. The vendor shall provide a report to the Commissioner throughout the duration of the contract with an update to the information whenever payroll records are required to be submitted to Kean pursuant to N.J.S.A. 34:11-56.25, et. seq. The vendor shall report such information using a form adopted by the Commissioner which can currently be found on the NJ Department of Labor website here: https://www.nj.gov/labor/forms_pdfs/equalpayact/MW-562withoutfein.pdf. Instructions for filling out the form can be found here: https://www.nj.gov/labor/forms_pdfs/equalpayact/mw564_instructions.pdf. Reports may be made via a printable PDF available on the Department of Labor web site or uploaded in a spreadsheet. Completed reports should be emailed to: equalpayact@dol.nj.gov or such other address identified by the Commissioner.

1.34 BUILDING SERVICE. Pursuant to N.J.S.A. 34:11-56.58 et seq., in any contract for building services as defined in N.J.S.A. 34:11-56.59, the employees of the vendor or subcontractors shall be paid prevailing wage for

building services rates, as defined in N.J.S.A. 34:11-56.59. The prevailing wage shall be adjusted annually during the term of the contract.

SECTION 2 - INDEMNIFICATION AND INSURANCE

2.1 CLAIMS. Claims asserted shall be subject to the New Jersey Tort Claims Act, N.J.S.A. 59:1-1, et seq., and/or the New Jersey Contractual Liability Act, N.J.S.A. 59:13-1, et seq.

2.2 INFRINGEMENT INDEMNIFICATION. The vendor shall indemnify, defend, and hold harmless Kean University, its officers, agents, students, servants, and employees harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in performance of the contract.

2.3 GENERAL INDEMNIFICATION. The vendor shall assume all risk and responsibility for, and agrees to indemnify, defend, and hold harmless Kean University, its officers, agents, students, servants and employees from and against any and all claims, demands, suits, actions, recoveries, judgment, and costs and expenses in connection therewith on account of the loss of life, property, or injury or damage to the person, body or property of any person or persons whatsoever which shall arise from or result directly or indirectly from the services provided by vendor under this contract. This indemnification obligation is not limited by but is in addition to the insurance obligations contained in this agreement.

2.4 INSURANCE. The vendor shall secure and maintain in force for the term of the contract liability insurance as provided herein. All insurance coverage is subject to the approval of Kean University and shall be issued by an insurance company authorized to do business in the State of New Jersey and which maintains an A.M. Best rating of A- (VII) or better. The vendor shall provide Kean current certificates of insurance for all coverage and renewals thereof which must contain the provision that the insurance provided in the certificate shall not be canceled for any reason except after thirty (30) days written notice to Kean. Pursuant to the N.J. Tort Claims Act, no insurance carrier, as required herein, may be permitted to file a subrogation action against Kean University, the State of New Jersey, and/or the New Jersey Educational Facilities Authority. All insurance required herein, except Workers' Compensation, shall name Kean University, the State of New Jersey, and the New Jersey Educational Facilities Authority as additional insureds. The vendor shall provide the following types of insurance coverage, which are the minimum required and shall not relieve the vendor of any liability where liability for injury, death, or property damage is greater than the insurance coverage:

a. Commercial General Liability insurance written on an occurrence form including independent contractor liability, products/completed operations liability, contractual liability, covering but not limited to the liability assumed under the indemnification provisions of this contract. The policy shall not include any endorsement that restricts or reduces coverage as provided by the ISO CG 00 01 form without the approval of Kean. The minimum limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate. A "per location or project endorsement" shall be included, when the contract is for construction services or when otherwise requested in writing by Kean, so that the general aggregate limit applies separately to the location or project that is the subject of this contract.

b. Comprehensive Automobile Liability covering vendor's owned, non-owned, and hired vehicles when the contract requires the vendor's presence on Kean property. The limits of liability shall not be less than a combined single limit of one million dollars (\$1,000,000) per occurrence.

c. Worker's Compensation Insurance applicable to the laws of the State of New Jersey or other State or Federal jurisdiction applicable to vendor to protect the employees of the vendor and any subcontractor who will be engaged in the performance of this contract. The certificate must indicate that no proprietor, partner, executive officer or member is excluded.

d. Employer's Liability Insurance with a limit of liability not less than one million dollars (\$1,000,000) each accident, one million dollars (\$1,000,000) each employee for injury by disease, and one million dollars (\$1,000,000) injury by disease.

Failure to maintain insurance coverage as provided above shall be considered a material breach of the contract. The successful vendor will provide certificates of such insurance to Kean prior to the start of the contract and periodically throughout the course of the contract upon request. The vendor shall require all subcontractors to comply with all of the insurance requirements described above. The vendor shall be responsible for obtaining certificates of insurance for all coverage and renewals thereof for each subcontractor prior to the subcontractor's beginning work. The vendor shall provide copies of all subcontractor certificates of insurance to University Procurement and Business Services.

SECTION 3 – CONTRACT PERFORMANCE

3.1 SUBCONTRACTING OR ASSIGNMENT-The contract may not be subcontracted or assigned by the vendor, in whole or in part, without the prior written consent of the University. Such consent, if granted, shall not relieve the vendor of any of his or her responsibilities under the contract. If vendor proposes to subcontract for the services to be performed under the terms of the contract award, he or she shall state in his or her bid and attach for approval a list of said subcontractors and an itemization of the services to be supplied by them. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the University.

3.2 PERFORMANCE GUARANTEE OF VENDOR – FOR GOODS. To the extent vendor is providing goods to Kean, the vendor certifies that:

- a. The equipment offered is standard new equipment, and is the manufacturer's latest model in production, with parts regularly used for the type of equipment offered; that such parts are all in production and not likely to be discontinued; and that no attachment or part has been substituted or applied contrary to manufacturer's recommendations and standard practice.
- b. All equipment supplied to the University and operated by electrical current is UL approved.
- c. All new machines are to be guaranteed for the period stated in the vendor's proposal from time of written acceptance by Kean. The vendor will render prompt service without charge, regardless of geographic location, if needed.
- d. During the warranty period, vendor shall replace immediately any material which is rejected for failure to meet the requirements of the contract.

3.3 PERFORMANCE GUARANTEE OF VENDOR – FOR SERVICES. To the extent vendor is performing services for Kean, vendor warrants and represents that all services rendered to Kean shall be performed in strict and full accordance with the specifications stated in the contract and within professional standards of vendor's industry.

3.4 DELIVERY GUARANTEES- All items contracted for are F.O.B. Destination. Vendor shall assume all costs, liability, and responsibility for the delivery of merchandise in good condition to Kean. Kean reserves the right to deduct from vendor's invoice all charges incurred by Kean in the event any items are shipped and delivered on a "collect" basis via common carrier in lieu of the specified F.O.B. Destination. The vendor shall be responsible for the delivery of material in first class condition to the University or the purchaser under this contract, and in accordance with good commercial practice. Items delivered must be strictly in accordance with bid specifications. In the event delivery of goods or services is not made within the number of days stipulated or under the schedule defined in the specifications, the University may be authorized to obtain the material or service from any available source, the difference in price, any, to be paid by the vendor failing to meet his or her commitments. F.O.B. Destination does not cover "spotting" but does include delivery on the receiving platform of the University unless otherwise specified. The weights and measures of the University receiving the shipment shall govern.

3.5 UNIVERSITY'S RIGHT TO INSPECT VENDOR'S FACILITIES- The University reserves the right to inspect the vendor's establishment before making an award.

3.6 TERMINATION FOR CONVENIENCE. Kean may terminate this contract in whole or in part at any time without cause upon at least thirty (30) days' notice to the vendor. If the University terminates this contract without cause, the University will promptly pay the vendor for the goods or services performed through the effective date of termination, in accordance with the terms of this contract.

3.7 TERMINATION FOR CAUSE. Either party may terminate this contract upon at least thirty (30) days' written notice to the other party for breach of this contract by the other party, unless during such notice period, the party fully cures the breach to the other party's reasonable satisfaction. No action or failure to act by Kean shall constitute a waiver of any right it may have under the terms of the contract.

3.8 CONTRACT TERM. The term of the contract shall commence on the date a purchase order is issued by Kean and shall continue for the period of time specified in the Purchase Order. If the contract has an extension option and Kean agrees to extend the contract, vendor will be so notified prior to the expiration date of the existing contract by the issuance of a purchase order and shall have 15 calendar days to respond to the extension request. If the vendor agrees to the extension request, all terms and conditions of the original contract, including price, will be applicable.

3.9 AUTOMATIC RENEWAL. Kean shall not be bound by any automatic renewal terms in any vendor form or agreement unless Kean agrees to such terms in writing.

SECTION 4 - TERMS RELATING TO PRICE QUOTATION

4.1 PRICE FLUCTUATIONS DURING CONTRACT. All prices quoted shall be final and not subject to increase during the period of the contract. If a manufacturer's price decreases during the term of this contract, the University shall receive the full benefit of such decrease on any undelivered purchase order and on any subsequent order placed during the term of the contract. The University must be notified in writing of any price reduction within five (5) days of the effective date of the reduction.

4.2 C.O.D. TERMS. Unless otherwise stated by Kean in writing, C.O.D. terms are not acceptable as part of a bid proposal, and are cause for automatic rejection of a bid or proposal.

4.3 TAX CHARGES. Kean University is exempt from NJ Sales, Use Tax and Local Taxes under N.J.S.A. 54:32B-9(a)(1). As a non-profit institution, the University is exempt from Federal Excise Tax. These taxes must not be included in vendor quotations or invoices.

4.4 PAYMENT TO VENDORS. Payments for goods and/or services purchased by the University will only be from original copies of invoices, submitted by the vendor, to the University's General Accounting Department, at the address shown on the face of the purchase order.

4.5 CASH DISCOUNT. The vendor must show all allowable cash discounts on the face of the invoice. Cash discounts lower than 3% and for periods of less than 30 days will not be considered as factors in the award of contracts.